

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

JENNIFER KWASNIEWSKI, et al.,

Plaintiff(s),

vs.

SANOFI-AVENTIS U.S., LLC,

Defendant(s).

Case No. 2:12-cv-00515-GMN-NJK

ORDER

(Docket No. 159)

Pending before the Court is Plaintiffs' renewed motion to stay discovery. Docket No. 159. Defendant filed a notice of non-opposition. Docket No. 160.<sup>1</sup> The Court finds the matter properly resolved without oral argument. *See* Local Rule 78-1. For the reasons discussed below, Plaintiffs' renewed motion to stay is **DENIED**.

**I. STANDARD**

The Court has broad discretionary power to control discovery. *See, e.g., Little v. City of Seattle*, 863 F.2d 681, 685 (9th Cir. 1988); *see also Hallett v. Morgan*, 296 F.3d 732, 751 (9th Cir. 2002). This discretionary power extends to the issuance of a stay of discovery. *Alaska Cargo Transp., Inc. v. Alaska R.R.*, 5 F.3d 378, 383 (9th Cir. 1993).

"The Federal Rules of Civil Procedure do not provide for automatic or blanket stays of discovery when a potentially dispositive motion is pending." *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 601 (D. Nev. 2011) (stating that a stay of discovery is directly at odds with the need for expeditious

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<sup>1</sup> Although Defendant does not oppose Plaintiffs' motion, the Court must still determine whether Plaintiffs have properly established that discovery should be stayed pending the resolution of Defendant's motion to dismiss.

1 resolution of litigation). Nor does *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007) “‘erect an automatic,  
2 blanket prohibition on any and all discovery before . . . [a] complaint survives a motion to dismiss.’”  
3 *In re Flash Memory Antitrust Litig.*, 2008 WL 62278, \*3 (N.D. Cal. Jan. 4, 2008) (quoting *In re*  
4 *Graphics Processing Units Antitrust Litig.*, 2007 WL 2127577 (N.D. Cal. July 24, 2007)). Thus, the  
5 fact that a dispositive motion is pending is not “a situation that in and of itself would warrant a stay of  
6 discovery.” *Turner Broad. Sys., Inc. v. Tracinda Corp.*, 175 F.R.D. 554, 556 (D. Nev. 1997) (quotation  
7 omitted).

8 Rather, in deciding whether to grant a stay of discovery, the Court is guided by the objectives  
9 of Rule 1 to ensure a “just, speedy, and inexpensive determination of every action.”<sup>2</sup> *Kor Media Grp.,*  
10 *LLC v. Green*, 294 F.R.D. 579, 581 (D. Nev. 2013) (quoting *Tradebay*, 278 F.R.D. at 602-03). “With  
11 Rule 1 as its prime directive, this court must decide whether it is more just to speed the parties along  
12 in discovery and other proceedings while a dispositive motion is pending, or whether it is more just to  
13 delay or limit discovery and other proceedings to accomplish the inexpensive determination of the case.”  
14 *Ministerio Roca Solida v. U.S. Dep’t of Fish & Wildlife*, 288 F.R.D. 500, 504 (D. Nev. 2013). Where  
15 a pending dispositive motion challenges fewer than all of the disputed claims, prohibiting discovery  
16 causes unwarranted delay. *Id.* Accordingly, discovery may be stayed on the basis of a pending  
17 dispositive motion only when it is wholly dispositive. *Id.* at 506.

18 In this case, Defendant’s motion to dismiss is not wholly dispositive. Rather, it only “requests  
19 the Court to dismiss Counts 1 and 3, in part, and Count 4, in its entirety.” Docket No. 150 at 2.  
20 Delaying discovery would therefore result in unwarranted delay and a stay of discovery would be  
21 inconsistent with the directives of Rule 1. Accordingly, Plaintiffs’ renewed motion to stay discovery  
22 is **DENIED**. The parties shall file a joint proposed discovery plan, no later than June 24, 2016.

23 IT IS SO ORDERED.

24 DATED: June 17, 2016

25   
26 NANCY J. KOPPE  
27 United States Magistrate Judge

28 <sup>2</sup> Unless otherwise specified, references to “Rules” refer to the Federal Rules of Civil Procedure.